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10/648,997	08/27/2003	Eric Hengstenberg	01235	4371

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EXAMINER

JOHNSON, STEPHEN

ART UNIT PAPER NUMBER

3641

DATE MAILED: 06/09/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

10/648,997

Applicant(s)

HENGSTENBERG ET AL.

Examiner

Stephen M. Johnson

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3641

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 11 December 2003.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 11 December 2003 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date filed 10/28/2003.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

1. The drawings are objected to because numerical indicator 142 (see page 8, line 4) is not illustrated. A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.
2. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the first and second points (see claim 1) must be shown or the feature(s) canceled from the claim(s). **No new matter should be entered.**

Corrected drawing sheets are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

3. The disclosure is objected to because of the following informalities: On page 6, line 4, numerical indicator 48 should be 18. On page 8, line 3, number 56 is not the correct number for

the pin associated with torsion spring 140. On page 8, line 6, number 116 is not the number associated with a hole pair. On page 9, line 6, numerical indicator 88 should be 188. On page 10, line 22, numerical indicator 242 should be 252.

**Appropriate correction is required.**

4. Claims 1-20 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 1, line 7, the term "said second position" should be (said second point) if this is the intended antecedent. In claim 4, it is not understood as to how an igniter can be properly described as being composed of a primer and a structural item 252 that is responsible for holding the primer 254 in place as well as enveloping nipple 258. This definition is inconsistent with the accepted meaning of the term igniter in this art because the housing holding primer 254 is not responsible for igniting anything but rather only serves as a resilient block element to encompass primer 254 as well as nipple 258. Claims 5 and 15 are indefinite for like reasons.

In claim 1, what locations are intended by the claims "a first point" and "a second point"? Please reference in either the written specification and/or the drawings to location of these claimed points.

Claim 12 defines a "means provided between said spring and said breech plug for receiving an igniter. Claim 13 claims "said receiving means comprises: a spool...". However, the spool (illustrated in fig. 9) is not responsible for receiving igniter or primer 254 or for receiving the ignition assembly 252 and 254 in combination. The spool abuts both the primer 254 and the

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jacket 254 but does not receive either. Please clarify. In claim 13, section (b), how is the phrase "a spring" intended to relate to the previously claimed "a spring" (see claim 12, section (g))? In claim 16, how is the phrase "an igniter" intended to relate to the previously claimed (igniter) (see claim 12, section (h)). In claim 17, use of the phrase "to force said igniter against said breech plug" makes the claim indefinite because the igniter or primer 254 does not contact the breech plug 260 during the operation of the firearm. In claim 17, line 3, whose back is intended by the phrase "said back"?

In claim 19, section (f), it is not understood as to what structure is intended to be associated with the phrase "means coupled to said spring for receiving an igniter". None of the structure appears to both be coupled to spring 244 and at the same time receives primer or igniter 254. In claim 19, section (g), it is not understood as to what structure is intended to be associated with the phrase "means coupled to said spring for compressing said spring a predetermined distance only when said carriage is fully rotated with an igniter provided in contact with said breech plug" because primer or igniter 254 does not contact breech plug 260. In claim 20, what structure is intended to be associated with the claimed "means provided over said breech plug for directing primer shrapnel downward"?

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless —

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

6. Claims 1, 5, 7, 10-11 are rejected under 35 U.S.C. 102(b) as being anticipated by French et al..

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French et al. disclose an improved action for a firearm comprising:

- |   |                                       |
|---|---------------------------------------|
| a) a firing pin;  | 26                                    |
| b) means for motivating the firing pin from a first<br>to a second point;                               | 19                                    |
| c) an igniter;  | conventional cartridge                |
| d) means for biasing the igniter away from the<br>second point;   | 100, 106, 114; col. 6, lines<br>35-39 |
| e) means for moving the igniter to the second<br>point against a force applied by the biasing<br>means. | 82; col. 6, line 19                   |

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over French et al. in view of Driggs Jr. et al..

French et al. apply as previously recited. However, undisclosed is a motivating means that comprises a hammer secured to the firing pin. Driggs Jr. et al. teach a motivating means that is a hammer secured to the firing pin H. Applicant is selecting one hammer and firing pin assembly and substituting it for another hammer and firing pin assembly; both of which are commonly known arrangements in this art. It would have been obvious to a person of ordinary skill in this art at the time of the invention to apply the teachings of Driggs Jr. et al. to the French

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et al. improved action and have an improved action with a different hammer/firing pin arrangement.

9. Claims 1 and 11 are rejected under 35 U.S.C. 102(b) as being anticipated by Hammell et al..

Hammell et al. disclose an improved action for a firearm comprising:

- a) a firing pin; 36
- b) means for motivating the firing pin from a first col. 2, lines 19-22  
to a second point;
- c) an igniter; 20
- d) means for biasing the igniter away from the 38  
second point;
- e) means for moving the igniter to the second col. 2, lines 19-22  
point against a force applied by the biasing  
means.

10. Claims 2-4 and 8-9 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, second paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

11. Claims 12-18 would be allowable if rewritten or amended to overcome the rejection(s) under 35 U.S.C. 112, second paragraph, set forth in this Office action.

12. Claims 19-20 are too indefinite in their current form (see paragraph 4 above) to make a determination regarding patentable subject matter.

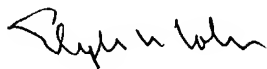
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13. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Phillips, Mainland et al., and Motley disclose other state of the art firearm actions.

14. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Stephen M. Johnson whose telephone number is 703-306-4158.

The examiner can normally be reached on Tuesday through Friday. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Carone can be reached on 703-306-4198. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-306-4177.

The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9326. The fax phone number for after final communications is (703) 872-9327.



STEPHEN M. JOHNSON  
PRIMARY EXAMINER

Stephen M. Johnson  
Primary Examiner  
Art Unit 3641

SMJ